IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Confirmation No.: 3595
Donna BUSHELL-WILLIAMS	Art Unit: 1652
Appl. No.: 10/578,894	Examiner: Fronda, Christian L.
Filed: May 15, 2007	Atty. Docket: 2818.2900001/BJD/DAS/KMH
For: **Fusion Proteins and Detergent Compositions Comprising Them**	

Reply to Restriction Requirement

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated March 30, 2009, requesting an election of one invention to prosecute in the above-referenced patent application, Applicants hereby provisionally elect to prosecute the invention of Group I, represented by claims 1-8 and 10-12. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

The election of restriction Group I is made **with** traverse. M.P.E.P. § 803 (Eighth Edition, Rev. 5 August, 2006) states:

> If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Applicants respectfully contend that the search required to examine all pending claims 1-8 and 10-12 (Group I), claim 9 (Group II) and claim 13 (Group III) will not impose a serious burden on the Examiner.

At the very least, the claims of Group I and the claims of Group II should be examined together. It is believed that a search for a fusion protein comprising a

carbohydrate binding domain and a domain having a high binding affinity for a microcapsule comprised of or containing a melamine based chemical component would be coextensive with a search for the DNA sequences of melamine binding proteins.

Accordingly, it is believed that a search for art relevant to the examination of Group I would find art relevant to the examination of the corresponding claims of Group II. Thus, both groups can be examined without serious burden.

Special Technical Feature

This application is a National Phase Entry under 35 U.S.C. § 371 and, as such, PCT Rule 13 requiring unity of invention applies. Title 37 of the Code of Federal Regulations states:

> (a) An international and national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention"). Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. *The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.*

37 C.F.R. § 1.475 (a) (emphasis added). The Examiner has asserted that the present claims do not share a single general inventive concept, because the claims lack the same or corresponding special technical features over the prior art. Applicant respectfully disagrees, and directs attention to section 1850 of the Manual for Patenting Examining Procedure, which states:

> Although lack of unity of invention should be raised in clear cases, it should neither be raised nor maintained on the basis of narrow, literal, or academic approach. For determining the action to be taken by the examiner...rigid rules cannot be given and each case should be considered on its merits, *the benefit of any doubt being given to the applicant*. (emphasis added)
> MPEP § 1850 (II)(paragraph 4).

The claims of the instant application do not qualify as a "clear case" of lacking unity of invention. Each claim shares the special technical feature of a fusion protein; the fusion protein represents a contribution over the prior art. As stated above the benefit of *any* doubt with respect to unity of invention must be given to the applicant. Applicants therefore respectfully submit that present claims represent a special technical feature and unity of invention exists between the claims of Groups I, II and III, as all claims are directed to a fusion protein, DNA sequences relating to the fusion protein and a method of using the fusion protein, the fusion proteins having a carbohydrate binding domain and a domain having a high binding affinity for a microcapsule comprised of or containing a melamine based chemical component.

Unity of Invention

This application is a National Phase Entry under 35 U.S.C. § 371 and, as such, PCT Rule 13 requiring unity of invention applies. Title 37 of the Code of Federal Regulations states:

> (b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:
> (1) *A product and a process specially adapted for the manufacture of said product; or*
> (2) *A product and a process of use of said product*;

37 C.F.R. § 1.475 (b)(1)-(2) (emphasis added).

The claims of Group I are directed to fusion proteins and compositions comprising them, i.e., the compositions of claims 1-8 and 10-12. The claim of Group II identified by the Examiner is directed to DNA sequences comprising a portion of the fusion protein recited in Claim 1. The claim of Group III identified by the Examiner is directed to a method of use of the compositions and fusion proteins recited in Claim 1, i.e., for delivering an agent to a fabric.

As noted above, under 37 C.F.R. § 1.475 (b)(1) states a national stage application containing claims to a product and a process specially adapted for the manufacture of said product will be considered to have unity of invention. Furthermore, under 37 C.F.R. § 1.475 (b)(2) a national stage application containing claims to a product and a process of use of said product will be considered to have unity of invention. Applicants therefore respectfully assert that the claims of Groups I, II and III share unity of invention and the Restriction Requirement is improper.

Request for Rejoinder

The Examiner has required restriction amongst Groups I, II and III. In accordance with MPEP § 821.04(a) a requirement for restriction should be withdrawn when a subcombination claim is allowable and any previously withdrawn claim that depends from or otherwise requires all the limitations of the subcombination should be rejoined. Applicants respectfully request that if the restriction requirement is made final and the claims of Group I, directed to a fusion protein, are found allowable, that the claims of Groups II and III, directed to DNA sequences of the fusion protein and a

method of use of the fusion proteins, be rejoined and examined for patentability. *See* M.P.E.P. § 821.04(a).

Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

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Date: June 26, 2009

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